



UNITED STATES DEPARTMENT OF COMMERCE

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COMMISSIONER OF PATENTS AND TRADEMARKS

Washington, D.C. 20231

MAILED

OCT 24 2001

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Applicants: SCHLEGEL

Application No.: 08/216,506

Filed: 03/22/94

For: HUMAN PAPILLOMAVIRUS VACCINES
CONTAINING CONFORMATIONAL CORRECT
L1 CAPSID PROTEINS

Filed by: Judge Fred McKelvey

Telephone: (703) 308-9797

Facsimile: (703) 305-0942

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 104,772.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

mcK

FRED E. McKELVEY
Administrative Patent Judge

INTERFERENCE DIGEST

Interference No. 104,772

Paper No. 41

Name: C. Richard Schlegel et al.

Serial No.: 08/216,506

Patent No.

Title: HUMAN PAPILLOMAVIRUS VACCINES CONTAINING CONFORMATIONAL
CORRECT L1 CAPSID PROTEINS

Filed: 03/22/94

Interference with Rose et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, _____ Dated, _____

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.



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BOARD OF PATENT APPEALS
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Applicants: SCHLEGEL

Application No.: 08/216,506

Filed: 03/22/94

For: HUMAN PAPILLOMAVIRUS VACCINES
CONTAINING CONFORMATIONAL CORRECT
L1 CAPSID PROTEINS

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 104,774.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

mgc

FRED E. McKELVEY

Administrative Patent Judge

INTERFERENCE DIGEST

Interference No. 104,774

Paper No. 43

Name: C. Richard Schlegel et al.

Serial No.: 08/216,506

Patent No.

Title: HUMAN PAPILLOMAVIRUS VACCINES CONTAINING CONFORMATIONAL
CORRECT L1 CAPSID PROTEINS

Filed: 03/22/94

Interference with Lowy et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, _____ Dated, _____

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: BOX INTERFERENCE

COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Filed by: Judge Fred McKelvey

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MAILED

OCT 24 2001

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Applicants: SCHLEGEL

Application No.: 08/216,506

Filed: 03/22/94

For: HUMAN PAPILLOMAVIRUS VACCINES
CONTAINING CONFORMATIONAL CORRECT L1
CAPSID PROTEINS

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 104,776.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

m.gk

FRED E. McKELVEY

Administrative Patent Judge

INTERFERENCE DIGEST

Interference No. 104,776

Paper No. 45

Name: C. Richard Schlegel et al.

Serial No.: 08/216,506

Patent No.

Title: HUMAN PAPILLOMAVIRUS VACCINES CONTAINING CONFORMATIONAL
CORRECT L1 CAPSID PROTEINS

Filed: 03/22/94

Interference with Frazer

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, _____ Dated, _____

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Fred E. McKelvey
Senior Administrative Patent Judge
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed
24 October 2001

MAILED

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 24 2001

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

C. RICHARD SCHLEGEL and A. BENNETT JENSON,

Junior Party,
(Application 08/216,506)

v.

IAN FRAZER and JIAN ZHOU,

Senior Party.
(Application 08/185,928)

Patent Interference 104,776 (McK)

NOTICE DECLARING INTERFERENCE¹
(37 CFR § 1.611)

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application, patent, count and claims designated as corresponding or as not corresponding to the counts appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

This interference is one of six interferences which replaces now administratively terminated Interference 103,929. No paper

¹ This NOTICE DECLARING INTERFERENCE is a modified version of the NOTICE generally used by the Trial Section (i.e., DECLARE.007, Revised September, 2000). Material added to DECLARE.007 appears in *italics*. Material deleted as being unnecessary appears in ~~strikeout~~.

filed, or evidence submitted, in Interference 103,929 is deemed to be of record in this interference. The six interferences are:

- (1) Interference 104,771, Rose v. Lowy.
- (2) Interference 104,772, Rose v. Schlegel.
- (3) Interference 104,773, Rose v. Frazer.
- (4) Interference 104,774, Lowy v. Schlegel.
- (5) Interference 104,775, Lowy v. Frazer.
- (6) Interference 104,776, Schlegel v. Frazer.

Times for taking action during the preliminary motion and priority testimony phase of all six interferences will be set to run concurrently. The Trial Section intends to decide preliminary motions at the same time and with the same motions panel (see Interference 103,929, Paper 306).

Part B. Judge designated to handle the interference

Senior Administrative Patent Judge Fred E. McKelvey has been designated to handle the interference. 37 CFR § 1.610(a).

Part C. Standing order

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

Part D. Conference call to set dates

A telephone conference call to set dates for taking action in the preliminary motions phase of the interference is ~~scheduled for _____ (the call will be initiated from the PTO).~~ not needed. The time for taking action during the preliminary motions phase are those typically set by the Trial Section.

~~No later than two business days prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.~~

~~A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.~~

~~Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.~~

Part E. The parties involved in this interference are:

Junior Party

Named Inventors: C. Richard Schlegel
A. Bennett Jenson

Application: Application 08/216,506,
filed 22 March 1994

Title: Human papillomavirus vaccines containing
conformationally correct L1 capsid
proteins

Assignee: Georgetown University School of
Medicine; licensees MedImmune, Inc. and
SmithKline Beecham PLC

Accorded Benefit: Application 07/903,109,
filed 25 June 1992

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: Ian Frazer
Jian Zhou

Application: Application 08/185,928,
filed 19 January 1994

Title: Papillomavirus vaccines

Assignee: CSL Limited (Australia) and University
of Queensland (Australia); licensee
Merck & Co., Inc.)

Accorded Benefit: PCT Application PCT/AU92/00364,
filed 20 July 1992

Australian patent application PK 7322,
filed 19 July 1991

Attorneys: See last page

Address: See last page

Part F. Count and claims of the parties²

Count 1

A composition of matter according to any of claims 1, 12, 19 or 64 of Schlegel or a method according to any of claims 50, 53 or 55 of Schlegel,

or

a composition of matter according to any of claims 67 or 91 of Frazer or a method according to any of claims 65, 89 or 97 of Frazer.

The claims of the parties are:

Schlegel: 1-3, 10-19, 21-26, 46-47, and 50-64

Frazer: 65-80 and 89-100

The claims of the parties which correspond to Count 1, and therefore are involved in the interference (35 U.S.C. § 135(a)) are:

Schlegel: 1-3, 10-19, 21-26, 46-47, and 50-64³

Frazer: 65-80 and 89-100

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Schlegel: None

Frazer: None

² The count includes all of the patentable subject matter of the two applications involved in the interference as represented by the claims which the examiner (1) deemed to be patentable subject to a decision in the interference and (2) recommended should be designated as corresponding to the original count in Interference 103,929.

³ In the Form 850 in Interference 103,929, the examiner has indicated that Schlegel claims 10-11, 15, 17-18, 21-22, 26, 51, 54, 61, 63, and 65-66 are otherwise unpatentable.

Part G. Heading to be used on papers

The following heading shall be used on papers filed in the interference. See § 18 of the STANDING ORDER.

Paper ____⁴

Filed on behalf of [name of party]

By: Name of lead counsel, Esq.

Name of backup counsel, Esq.

Street address

City, State, and Zip-Code

Tel:

Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

C. RICHARD SCHLEGEL and A. BENNETT JENSON,

Junior Party,
(Application 08/216,506)

v.

IAN FRAZER and JIAN ZHOU,

Senior Party.
(Application 08/185,928)

Patent Interference 104,776 (McK)

TITLE OF PAPER

⁴ Leave a blank line because the board assigns the paper number.

Part H. Summary of dates for taking action

Times for taking action are set out in the following sections of the STANDING ORDER:

1. § 7: date for identifying lead and backup counsel.
2. § 8: date for identifying any real party in interest.
3. § 9: date for requesting copies of involved and benefit applications and patents.
4. § 17: date for filing list of proposed preliminary motions.
5. § 19: date for accomplishing certain discovery.
6. § 20: date for filing clean copy of claims.
7. § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8. § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. § 33: date for objecting to admissibility of evidence.
10. § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. § 35: dates when cross-examination can take place.
12. § 45: dates for taking action with respect to settlement discussions

Part I. Order form for requesting file copies

It is believed that the parties should have copies of all relevant involved and benefit files. If not, the following form is to be used to order a copy of a file.

FILE COPY REQUEST

Interference 104,776 (McK)

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

Telephone, including area code: _____

Part J. Signature of administrative patent judge

mgk

Fred E. McKelvey
Senior Administrative Patent Judge

24 October 2001
Arlington, VA

Enc:

Copy of STANDING ORDER (Paper 2)

~~Copy of order used for setting times for taking action in
the preliminary motion phase of the interference (ORDERPM6)~~

Copy of order used for setting times for taking action in
the testimony and briefing phases of the interference
(ORDERTE6)

There is no PTO Form 850 (see file of Interference 103,929)

DECLARE.007
Revised September, 2000
(replaces DECLARE.006.1)

104,776

cc (via Federal Express):

Counsel for Schlegel

(real party in interest

assignee Georgetown University School of Medicine;

licensees MedImmune, Inc. and SmithKline Beecham PLC):

Elliot M. Olstein, Esq.

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E-mail: rlillie@carellabyrne.com

Counsel for Frazer

(real party in interest

assignee CSL Limited (Australia) and Univeristy of

Queensland (Australia); licensee Merck & Co., Inc.):

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FOLEY & LARDNER

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